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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/745,006 12/20/00 SAUER

B KCC-14,083

EXAMINER

QM12/0914

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REICHLE, K

ART UNIT

PAPER NUMBER

3761

DATE MAILED:

09/14/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/745006

Applicant(s)

Sauer

Examiner

Reiche

Group Art Unit

3761

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☒ Responsive to communication(s) filed on 12-20-00
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-17 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-17 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 4
- ☐ Interview Summary, PTO-413
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

Art Unit: 3761

The prior art cited in the specification has been noted but will not appear on the front of a patent, if any, unless cited on a PTO-892 or - 1449 accompanying this action, since such citations are not in compliance with 37 CFR 1.56, 1.97 and 1.98.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Foreman '677.

See Figures 1 and 3, column 1, lines 55-60, column 3, lines 22-55, column 5, lines 61-68, column 7, lines 1-29, column 8, lines 42-63, column 9, lines 65 et seq, column 10, line 54 - column 11, line 12, column 12, lines 21-42, column 13, lines 15-35, column 14, lines 58-62 and thus column 7, lines 31-39 of Buell, column 15, line 11 - column 16, line 25. With regard to claims 3 and 9, see cited portions supra discussing pleats, i.e. pleats disposed along pocket edge which are oriented in a longitudinal direction of the article.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3761

Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foreman in view of Igaue et al.

Applicants claim forming a multilayer material of rectangular configuration, removing portions, i.e. producing a hourglass configuration, and forming pleats in the flap sheet proximate the back region. The Foreman patent does not teach the rectangular configuration or removing portions, i.e. forming an hourglass configuration, steps. However, see column 3, line 60-col. 4, lines 12 and Figures 7-8 of Igaue et al. To employ a rectangular material which has a portion removed to create an hourglass shape as taught by Igaue et al on the Foreman device would have been obvious to one of ordinary skill in the art in view of the recognition that such would provide more efficient manufacture, i.e. easier to align rolls of material and shape than align already shaped material, and the desirability of efficiency in manufacture of any article. In so doing, since the flaps are attached prior to be removing step, upon definition and identification of the portion of the material which is the rear portion, i.e. removing portions, attachment of tabs steps etc, the pleats in the flap sheet are necessarily "formed" in the region they are proximately attached to, i.e. the rear portion. The claims do not require pleating an unpleated flap sheet after removing the portions step.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The other references show other waist flaps or pleats.

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Any inquiry concerning this communication should be directed to K. Reichle at telephone number (703) 308-2617.

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Patent Examiner

K. Reichle:bhw
September 6, 2001